

REMARKS

The above-captioned patent application has been carefully reviewed in light of the Official Action to which this Amendment is responsive. Claims 1-5 and 8-10 have been amended to more clearly define and particularly point out that which is regarded as the invention. New Claims 13-15 have been added. To that end, it is believed that no new matter has been added to the application.

Claims 1-12 are pending, all claims having been rejected by certain prior art, particularly by Babkes (U.S. Patent No. 6,634,789) under 35 USC §102(a). Applicants' respectfully requests reconsideration based on the amended and new claims and the following discussion.

In order to anticipate under the Patent Statute, each and every claimed limitation must be present, or its substantial equivalent, in the cited reference. Those limitations that are not present must be replete in the prior art to one of ordinary skill in the field.

Babkes '789 (hereinafter Babkes) describes an electronic thermometer that includes three (3) primary components; first a temperature probe that is tethered to a second component, namely a module assembly, the module assembly being removably attachable to a calculation unit. The removable module integrally includes an isolation chamber for retaining the probe, as well as a receptacle for housing a carton of probe covers. The removable module is interchangeably operable with a third component, a single temperature calculation unit, the latter having a contained processor and stored algorithms for determining temperature based on the type of temperature probe that is used. Unlike the present invention, however, the probe well (i.e., the isolation chamber 140) itself is not removable from the removable module assembly, but is integral therewith – see Figs. 4, 5 of Babkes.

Applicants' acknowledge that Babkes includes a switch for detecting the presence of a probe 161 in the probe well 140 using, for example, a paddle switch 145. This reference, however, though it does describe the attachment of a removable module assembly 160 to the temperature calculating unit 200 through another separate switch assembly, does not individually relate or describe a removably attachment

probe well and/or describe the attachment of the probe well and the probe according to the apparatus and method of the present invention. To that end, Applicants' have amended Claim 1 to more clearly define that the thermometry apparatus includes an elongate probe and an elongate probe well that receives the probe. More particularly, the probe well is removable from a defined cavity of the apparatus housing wherein a first switch assembly detects whether the elongate probe well is installed with the housing cavity and the first switch assembly enables the thermometry apparatus to operate only if the probe well is provided in the defined cavity of the housing.

In this instance, the changes are more than cosmetic. Babkes does not utilize a removable isolation chamber. Therefore, there is no problem of confusion if the removable module is not attached however, that is a problem in that it is not always obvious that an isolation chamber is in place properly in the apparatus. As a result, one might improperly insert a probe into the cavity without the isolation chamber/probe well being present. This action could cause contamination and is not desirable.

Claims 2, 3, 4, 5 and 8 have been amended to comport to the amended language of amended Claim 1. Support is found at paragraph [0025], [0027], [0029] and [0031] of the present application. Therefore, no new matter has been added.

Independent Claim 9 has also been amended in an effort to further clarify the present invention. This claim, as amended, recites a method for automatically powering a thermometry apparatus having a probe with at least one temperature sensitive element in which the method comprises the steps of determining whether a probe well is installed in a cavity of a thermometry apparatus housing automatically determining whether a probe has been removed from the probe well and automatically powering the apparatus of the probe well has been determined to be installed in the defined cavity of the housing and a probe has been removed from the installed probe well.

Claim 10 has been amended to comport with the language of amended Claim 9.

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New Claims 13-15 have been added, each relating to the shroud assembly.

Applicants' therefore have provided for a thermometry apparatus having a pair of switch assemblies wherein the thermometry apparatus will not operate unless a probe well is properly seated in the defined cavity of the housing permitting assembly thereof and more preferably only if a probe has also been removed from the probe well, see Figs. 3-5 of the present invention. To that end, no new matter has been added. Reconsideration is respectfully requested.

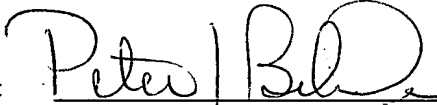
In summary, it is believed the above-captioned patent application is in an allowable condition and such allowance is earnestly solicited.

If the Examiner wishes to expedite disposition of the above-captioned patent application, he is invited to contact Applicants' representative at the telephone number below.

The Director is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0289.

Respectfully submitted,

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